

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Crl.Rev.Pet.No. 1127 of 2015 ()

AGAINST THE JUDGMENT IN CRA 48/2015 OF SESSIONS JUDGE,
KASARAGOD

M.C. 3 OF 2014 IN SC 789/2012 OF ASSISTANT SESSIONS JUDGE,
KASARAGOD

REVISION PETITIONER(S):

1. KUNHIRAMAN AGED 51 YEARS
S/O. APPUKUTTAN, RESIDING AT KOPPAL HOUSE,
UDMA PADINHAR, HOSDURG TALUK,
KASARAGOD
2. P.C. KANNAN, AGED 69 YEARS,
S/O. CHOYI, PALLAM HOUSE,
UDUMA VILLAGE, HOSDURG TALUK,
KASARAGOD

BY ADVS.SRI.T.G.RAJENDRAN
SRI.T.R.TARIN
SMT.ANN SUSAN GEORGE
SRI.V.A.VINOD

RESPONDENT(S):

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031

BY PUBLIC PROSECUTOR SRI. SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 10-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

B. SUDHEENDRA KUMAR, J.

.....
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.....

Dated this the 10th day of September, 2015.

ORDER

The revision petitioners are the counter petitioners in M.C. No. 3 of 2014 on the files of Court of the Assistant Sessions Judge, Kasaragod.

2. Heard the learned counsel for the revision petitioners and the learned Public Prosecutor.

3. Revision Petitioners were the sureties to the accused in the above M.C. The bond amount was Rs. 35,000/-. However, the revision petitioners were failed to appear before the court as directed by the court below. In the said circumstances, the court below proceeded against them under Section 446 Cr.P.C. The revision petitioners appeared before the court below through counsel. However, to the show cause notice issued to them, they

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had no explanation to be offered. In the said circumstances, the learned Assist. Sessions Judge imposed the bond amount as penalty. Against the said order, the revision petitioners filed appeal before the Sessions Court, Kasaragod. As per Judgment in Crl. Appeal 48/2015, the penalty was modified and reduced to Rs. 10,000/- each.

4. It has been submitted by the learned counsel for the revision petitioners that the revision petitioners had produced the accused before the Court on 30-07-2015 and the said accused was released on bail by the trial Court and in the said circumstances, the learned counsel has pleaded for leniency in the matter of penalty. The learned counsel for the revision petitioners that there was no wilful laches on the part of the revision petitioners in not appearing before the court as directed by the trial Court. It has been further submitted by the learned counsel for the revision petitioners that the revision petitioners are aged coolie workers who find it very difficult even to earn money for their livelihood and in the said circumstances, they find it very

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difficult to deposit the amount ordered by the court. The offence alleged against the accused is 55 (a) of the Abkari Act.

5. Considering the facts and circumstances of the case including the submission of the learned counsel for the revision petitioners, I am of the view that leniency can be taken in the matter of penalty. Accordingly, I order so.

In the result, the revision petition stands allowed modifying and reducing the penalty ordered by the court below and remission is granted to the extent that each of the revision petitioners shall deposit an amount of Rs. 5,000/- as penalty under Section 446 (3) Cr.P.C. Revision Petitioners are granted 10 days time to deposit the amount.

**B. SUDHEENDRA KUMAR,
JUDGE.**

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